



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0109]

Letter to the Nuclear Energy Institute Entergy Services, Inc., and NextEra Energy Regarding the Clarification of Regulatory Path for Lead Test Assemblies

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a letter to the Nuclear Energy Institute (NEI), Entergy Services, Inc., and NextEra Energy to finalize the NRC staff's views on the regulatory positions regarding lead test assemblies (LTAs) previously discussed in the NRC's letter to NEI dated June 29, 2017.

DATES: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC–2018–0109** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov/> and search for Docket ID **NRC–2018–0109**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

Jennifer.Borges@nrc.gov. For technical questions, contact the individuals listed in the

FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the

search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the **AVAILABILITY OF DOCUMENTS** section.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kimberly Green, Office of Nuclear Reactor Regulation, telephone: 301-415-1627, e-mail: Kimberly.Green@nrc.gov, or Reed Anzalone, Office of Nuclear Reactor Regulation, telephone: 301-415-2988, e-mail: Reed.Anzalone@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a letter to NEI, Entergy Services, Inc., and NextEra Energy to clarify the NRC staff’s interpretation of Standard Technical Specification (STS) 4.2.1, “Fuel Assemblies.” The first part of STS 4.2.1 places limitations on the number of fuel assemblies in the reactor core, the type of fuel that can be used, the cladding material that can be used (e.g., zircaloy or ZIRLO), and requires the use of NRC-approved codes and methods for the fuel assemblies. The last sentence of STS 4.2.1 allows for the irradiation of a limited number of LTAs that have not completed representative testing if placed in nonlimiting regions of the reactor core.

In the past, licensees have taken different approaches when conducting LTA campaigns. Some licensees obtained prior NRC approval by license amendments

approving changes to Technical Specification (TS) 4.2.1 or exemptions from § 50.46, “Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,” of title 10 of the *Code of Federal Regulations* (10 CFR), or both, for their LTA campaigns. Other licensees conducted LTA campaigns under 10 CFR 50.59, “Changes, tests, and experiments,” without prior NRC approval.

This letter clarifies the NRC staff’s views on the regulatory positions regarding LTAs previously discussed in the NRC’s letter to NEI dated June 29, 2017. The letter provides: clarification on the LTA provision in STS 4.2.1; clarification on the use of approved methods for LTA campaigns; a regulatory path for LTA campaigns; guidance on the use of NEI 96–07, Revision 1, “Guidelines for 10 CFR 50.59 Implementation,” regarding LTAs; and guidance on exemptions from the requirements in 10 CFR 50.46 for LTAs.

II. Opportunity for Public Participation

The NRC published a notice of the availability of a draft letter to NEI regarding the clarification of regulatory paths for lead test assemblies in the *Federal Register* on June 7, 2018 (83 FR 26503) for a 20-day public comment period. The public comment period closed on June 27, 2018. After consideration of comments requesting additional time to comment on the draft letter, the NRC reopened the public comment period for an additional 20 days on July 2, 2018. The additional comment period closed on July 23, 2018.

The NRC received 272 comment submissions on the draft guidance letter consisting of approximately 900 comments. Public comments on the draft letter and the staff responses to the public comments are available electronically in ADAMS under Accession No. ML19126A101 (the comment response document). A compilation of all comment submissions with annotated comments is also available.

Table 1, “Commenters on Guidance Letter,” in the comment response document contains a listing of persons or entities that provided comments. The name of the individual and affiliation, if provided, a unique identifier for the commenter, and the ADAMS accession number are listed. Some individuals are listed more than once because they provided more than one comment letter.

Each comment letter was segmented into individual comments, and each comment was then categorized by topic. The topics are provided in Table 2 of the comment response document. The comments are summarized and are followed by a response. If the NRC staff determined that a change to the letter was warranted, because of the comment, it is indicated in the response.

III. Congressional Review Act

This guidance letter is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

The letter provides additional clarification on previous staff preliminary statements and positions regarding the use of LTAs made in a letter to NEI dated June 29, 2017. Issuance of the letter does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC has no current intention to impose the positions described in the letter on holders of current operating licenses or combined licenses.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the methods previously indicated.

DOCUMENT	ADAMS ACCESSION NO.
Letter from U.S. Nuclear Regulatory Commission to Nuclear Energy Institute, Entergy Services, Inc., and NextEra Energy, Subject: Clarification of Regulatory Path for Lead Test Assemblies, dated June 24, 2019.	ML18323A169
Letter from Mirela Gavrilas, U.S. NRC, to Mr. Andrew Mauer, Nuclear Energy Institute. Subject: Response to Nuclear Energy Institute Letter Concerning the Regulatory Path for Lead Test Assemblies. June 29, 2017.	ML17150A443
NUREG-1430, Standard Technical Specifications—Babcock and Wilcox Plants, Volume 1, Revision 4	ML12100A177
NUREG-1431, Standard Technical Specifications—Westinghouse Plants, Volume 1, Revision 4	ML12100A222
NUREG-1432, Standard Technical Specifications—Combustion Engineering Plants, Volume 1, Revision 4	ML12102A165
NUREG-1433, Standard Technical Specifications—General Electric Plants (BWR/4), Volume 1, Revision 4	ML12104A192
NUREG-1434, Standard Technical Specifications—General Electric Plants (BWR/6), Volume 1, Revision 4	ML12104A195
NEI 96-07, Revision 1, Guidelines for 10 CFR 50.59 Implementation	ML003771157
Draft letter from U.S. Nuclear Regulatory Commission to Nuclear Energy Institute. Subject: Clarification of Regulatory Paths for Lead Test Assemblies, dated May 31, 2018.	ML18100A045
Public comments on the draft letter and the staff responses to the public comments	ML19126A101
Compilation of comment submissions with annotated comments	ML19141A222

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger, Director,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.